

**RECEIVED  
CENTRAL FAX CENTER**

NOV 09 2004 Atty. Dkt. No. 071949-1315

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kenneth F. Buechler

Title: DIAGNOSTIC DEVICES AND  
APPARATUS FOR THE  
CONTROLLED MOVEMENT OF  
REAGENTS WITHOUT  
MEMBRANES

Appl. No.: 09/982,629

Filing Date: 10/18/2001

Examiner: Lyle Alexander

Art Unit: 1743

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.
<u>Germaine Sarda</u> (Printed Name)
<u><i>Germaine Sarda</i></u> (Signature)
<u>November 9, 2004</u> (Date of Deposit)

**TERMINAL DISCLAIMER FOR U.S. PATENT NO. 6,767,510**

Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, Biosite, Inc., having its principal place of business at 11030 Roselle Street, Suite D, San Diego, CA 92121 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/982,629, filed 10/18/2001, by virtue of an Assignment, a copy of which is attached hereto as APPENDIX A, and a change of name recorded under/ Reel/Frame 013708/0442.

Further, your Petitioner represents that it is the owner of U.S. Patent No. 6,767,510, which issued on U.S. Patent Application No. 09/805,653, filed 03/13/2001, which is a continuation of 09/913,650, filed 07/11/2000, by virtue of the Assignment recorded at 014048/0892 on 10/14/2003, attached as APPENDIX B.

-1-

**BEST AVAILABLE COPY**

Atty. Dkt. No. 071949-1315

Your Petitioner, Biosite, Inc., hereby disclaims the terminal part of the term of any patent granted on the above captioned patent application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 6,767,510, and hereby agrees that any patent so granted on the above captioned patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 6,767,510 shall be the same as the legal title to any patent granted on the above captioned patent application, this agreement to run with any patent granted on the above captioned patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above captioned patent application, prior to the full statutory term of U.S. Patent 6,767,510 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,767,510 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 6,767,510 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above captioned patent application that would extend beyond the present termination of U.S. Patent 6,767,510, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above captioned patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above captioned patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached as APPENDIX A, and to the best of his knowledge and belief, legal title to

Atty. Dkt. No. 071949-1315

the above captioned patent application and U.S. Patent 6,767,510 rests with Petitioner, Biosite, Inc. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date November 9, 2004By Barry S. Wilson

FOLEY &amp; LARDNER LLP

Customer Number: 23620

Telephone: (858) 847-6722

Facsimile: (858) 792-6773

Barry S. Wilson  
Attorney for Applicant  
Registration No. 39,431

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKewed/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**